

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

ARTHUR MYERS,

Claimant,

v.

QWEST,

Employer,

and

RELIANCE NATIONAL INDEMNITY CO.,

Surety,

Defendants.

IC 01-008270

ORDER

Filed Dec. 29, 2005

Pursuant to Idaho Code § 72-717, Referee Rinda Just submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation. The Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law only as they pertain to the issues of whether Claimant has complied with the applicable notice requirements.

Claimant's occupational disease claim is barred for failure to provide oral or written notice within sixty days of the date of manifestation and his failure to file a claim within one year of the date of manifestation. Any discussion and/or analysis of other issues is purely for Claimant's benefit and is not adopted by the Commission.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. The notice requirements of Idaho Code §§ 72-701 through 72-706 are inapplicable where Claimant denies the occurrence of an accident as defined by Idaho Code § 71-102(17)(a) and (c).

2. Claimant failed to comply with the notice and claim requirements for an occupational disease as set out at Idaho Code § 72-448, and thus his occupational disease claim is barred.

3. All other issues are moot.

4. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 29th day of December, 2005.

INDUSTRIAL COMMISSION

/s/
Thomas E. Limbaugh, Chairman

/s/
James F. Kile, Commissioner

/s/
R.D. Maynard, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of December, 2005, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

ARTHUR MYERS
3620 N PEPPERWOOD
BOISE ID 83704

THOMAS P BASKIN
PO BOX 6756
BOISE ID 83707-6756

djb

/s/